SINGLE BENCH

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IN THE HIGH COURT OF JUDICATURE, AT BILASPUR (C.G.)

Writ Petition No. 3242 **/2005**

PETITIONER : Deoraj Deshmukh S/o Ram Prasad Deshmukh aged about 45 years R/o Suregaon Tah. Dondilohara, Distt. Durg (C.G.)

P.R. No. 3402/2 Presented by Shri K.K. Sharma dated 19-7-05

VERSUS

RESPONDENTS

1] The State of C.G. through the Secretary Dept. of Revenue D.K.S. Bhawan Raipur (C.G.)

2) The Collector Distt. Durg (C.G.)

3] The S.D.O./ Land Acquisition Officer Dandilohara, Distt. Durg (C.G.)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

मामला क्रमांक WP(C) 3242 **सन्** 2005

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	25-7-2005 Shri Pravin Das, counsel for the petitioner. Shri Sandeep Dubey, Govt. Advocate for the State/ respondents. Heard both the counsel. With the consent of learned counsel for the parties, this petition is being disposed of. By this petition, the petitioner has questioned the legality of the order dated 7-6-2005 passed by the S.D.O./Land Acquisition Officer, Dondilohara, respondent No.3, whereby he rejected the application moved by the petitioner under Section 18 of the Land Acquisition Act, 1894, requesting for reference to the civil Court about determination of the amount of compensation. The State Government acquired the land ad measuring 17.26 acres of village Suregaon, Tehsil Dondilohara, District: Durg for the purpose of construction of canals under Kharkhara Mohdipat Project. After following the procedure under the Act, an award was passed by the Land Acquisition Officer .e. respondent No.3. In pursuance of the notice the petitioner along with other noticee submitted an application for just valuation/compensation of the land on the basis of prevalent price before respondent No.3, but the Land Acquisition Officer relying on incorrect assessment regarding prevalent rates of land, has passed the award. The petitioner accepted the award under	

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protest. Copy of the order sheet of the court of SDO/Land Acquisition Officer along with award is Annexure-P/1. Being aggrieved by the said order, the petitioner moved an application under Section 18 of the Act praying the reference of the matter to the court for determination. He raised the objection on the ground that similar land situated in the village is valued at Rs.8,000/- per decimal whereas, the award has been passed taking the value as Rs.890/- per decimal. The respondent No.3 rejected the application.

Perusal of the impugned order shows that learned S.D.O. has ordered for rejection of the objection and the Sub-Registrar, Dondilohara submitted the statement of sale for one year under Section 17(4) of the Act and thereafter, the matter was sent to the District Land Acquisition Officer, Durg and on that, the Land Acquisition Officer has already passed the award. Since the petitioner has taken compensation, therefore, the same was rejected. Perusal of impugned order further reveals that the petitioner accepted the compensation of amount under protest. Second proviso to sub-section (2) of Section 31 of the Land Acquisition Act, 1894 provides that '*no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18.*' In this case, the petitioner accepted the amount under protest.

Section 18 envisages that '*any person interested who has not accepted the award may, by written application to the Collector,*

(पीछे देखिये)

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आदेश पत्रक

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require that the matter be referred by the Collector for the determination of the court whether his objection be to the measurement of the land, the amount of the compensation.'

Therefore, in view of the above proviso to Section 31 and Section 18 of the Land Acquisition Act, 1894, learned S.D.O. was under duty bound to refer the matter for consideration of compensation by the Court.

In view of the above, the writ petition is allowed and the S.D.O. is directed to refer the matter for reference.

Parties are entitled for certified copy of this order.

Sd/-
L.C. Bhadoo
Judge

Barve

(पीछे देखिये)